United Nations A/64/356

General Assembly

Distr.: General
17 September 2009

Original: English

Sixty-fourth session
Item 77 of the provisional agenda*
Report of the International Criminal Court

Report of the International Criminal Court**

Note by the Secretary-General

The annual report of the International Criminal Court is submitted herewith to the General Assembly, in accordance with article 6 of the Relationship Agreement between the United Nations and the International Criminal Court (see A/58/874, annex, and A/58/874/Add.1) and paragraph 17 of Assembly resolution 63/21.

* A/64/150 and Corr.1.
** The present document was submitted late owing to technical reasons.

09-51739 (E) 121009

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Report of the International Criminal Court to the United Nations for 2008/09

Summary

The present report, covering the period from 1 August 2008 to 31 July 2009, is the fifth annual report of the International Criminal Court submitted to the United Nations. It covers the main developments in the activities of the Court and other developments of relevance to the relationship between the Court and the United Nations.

The Court continued to be seized of four situations during the reporting period. The situations in the Democratic Republic of the Congo, Uganda and the Central African Republic were each previously referred to the Court by those States parties to the Rome Statute themselves. The situation in Darfur, the Sudan, had been referred by the Security Council. Six other situations on four continents were under preliminary analysis by the Office of the Prosecutor, namely, those in Afghanistan, Colombia, Côte d'Ivoire, Georgia, Kenya and Palestine. No decision on whether to open an investigation in those situations was taken.

On 26 January 2009, the Court, following substantial pre-trial proceedings, began its first trial, that of *The Prosecutor v. Thomas Lubanga Dyilo*. Mr. Lubanga is charged, in relation to the situation in the Democratic Republic of the Congo, with the war crimes of conscripting and enlisting children under the age of 15 and using them to participate actively in hostilities. The prosecution concluded the presentation of its case on 14 July, and the defence is scheduled to begin the presentation of its evidence in October.

On 26 September 2008, Pre-Trial Chamber I, in relation to the situation in the Democratic Republic of the Congo, confirmed seven charges of war crimes and three charges of crimes against humanity against Germain Katanga and Mathieu Ngudjolo Chui. Their joint trial is scheduled to begin on 24 September 2009.

On 15 June 2009, Pre-Trial Chamber II, in relation to the situation in the Central African Republic, confirmed three charges of war crimes and two charges of crimes against humanity against Jean-Pierre Bemba Gombo. On 22 June, the Prosecutor sought leave to appeal the decision of the Chamber that declined to confirm charges of torture or the war crime of outrages upon personal dignity.

On 4 March 2009, Pre-Trial Chamber I, in relation to the situation in Darfur, issued a warrant of arrest against Omar Hassan Ahmad Al-Bashir, President of the Sudan. The Chamber determined that there were reasonable grounds to believe he had committed crimes within the jurisdiction of the Court, namely five counts of crimes against humanity and two counts of war crimes. The Chamber declined to confirm charges of genocide, a decision which has since been appealed by the Prosecutor on the issue of the correct standard of proof at the arrest warrant stage. The Court issued requests to a number of States for the arrest and surrender of Mr. Al-Bashir.

On 20 November 2008, the Prosecutor brought an application for arrest warrants or, in the alternative, summons to appear for three individuals for crimes allegedly committed against African Union peacekeepers in Darfur on 29 September 2007, at the African Union Haskanita base. On 7 May 2009, Pre-Trial Chamber I issued a summons to appear for Bahr Idriss Abu Garda, finding that there were reasonable grounds to believe he had committed crimes within the jurisdiction of the Court, specifically three counts of war crimes, and that a summons to appear would be sufficient to ensure his appearance before the Court. Mr. Abu Garda made his initial appearance before the Court on 18 May 2009. He is scheduled to appear again on 12 October 2009 for a hearing on the confirmation of the charges. No decision was taken on the requests of the Prosecutor related to the two other individuals.

Eight warrants of arrest are outstanding: four in the situation in Uganda, three in the situation in Darfur and one in the situation in the Democratic Republic of the Congo. The Court relies on States to arrest and surrender suspects to the Court. The Court has issued requests for cooperation in the arrest and surrender of those individuals, which are legally binding on States parties to the Rome Statute. In the meantime, the Court continued to monitor the status of cooperation with its requests and to strengthen its cooperation with States, the United Nations and other actors, with a view to ensuring necessary support in all areas.

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I. Introduction

1. The present report, covering the period from 1 August 2008 to 31 July 2009, is the fifth annual report of the International Criminal Court submitted to the United Nations in accordance with article 6 of the Relationship Agreement between the United Nations and the International Criminal Court (see A/58/874, annex, and A/58/874/Add.1). It covers the main developments in the activities of the Court and other developments of relevance to the relationship between the Court and the United Nations since the fourth report of the Court to the United Nations (A/63/323).

2. The Court was created by an international treaty, the Rome Statute, which was adopted on 17 July 1998 and entered into force on 1 July 2002. During the reporting period, Chile and the Czech Republic deposited their instruments of ratification, becoming the 109th and 110th States, respectively, to ratify or accede to the Rome Statute. States that have ratified or acceded to the Statute include 30 African States, 14 Asian States, 17 Eastern European States, 24 Latin American and the Caribbean States and 25 Western European and other States.

3. The Court is an independent judicial institution, charged with carrying out investigations into and trials of individuals allegedly responsible for the most serious crimes of international concern, namely genocide, crimes against humanity and war crimes. The Rome Statute requires that proceedings before the Court be carried out fairly and impartially, with full respect for the rights of the accused. An innovative aspect of the Rome Statute in comparison with previously established international criminal courts or tribunals is that victims may participate in proceedings, even if not called as witnesses.

4. In carrying out its functions, the Court relies on the cooperation of States, international organizations and civil society, in accordance with the Rome Statute and international agreements concluded by the Court. Areas where the Court requires cooperation from States include analysis, investigation, the arrest and surrender of persons, witness protection and the enforcement of sentences.

5. The Court is independent from but has close historical, legal and operational ties to the United Nations. The relationship between the Court and the United Nations is governed by the relevant provisions of the Rome Statute and by the Relationship Agreement between the United Nations and the International Criminal Court. During the reporting period, the Court continued to develop its cooperation with the United Nations.

II. Judicial proceedings

6. During the reporting period, the Court continued to be seized of four situations, each referred to the Court by a State party to the Rome Statute concerning its own nationals or territory or by the Security Council. The situation in the Democratic Republic of the Congo was referred to the Court by that State party on 19 April 2004. The situation in Uganda was referred to the Court by that State party on 29 January 2004. The situation in the Central African Republic was referred to the Court by that State party on 22 December 2004. The situation in Darfur, the Sudan, was referred to the Court by the Security Council in its resolution 1593 (2005).

7. Following each referral, the Prosecutor evaluated the available information and determined that there was a reasonable basis to begin an investigation into each situation. Judicial proceedings have taken place in relation to each investigation, resulting in 8 cases involving 14 individuals alleged to have committed crimes within the jurisdiction of the Court.

A. *The Prosecutor v. Thomas Lubanga Dyilo* (situation in the Democratic Republic of the Congo)

8. On 26 January 2009, Trial Chamber I, comprising Judges Sir Adrian Fulford, Elisabeth Odio Benito and René Blattmann, commenced the trial of *The Prosecutor v. Thomas Lubanga Dyilo*. Mr. Lubanga is alleged to be the leader of the Union des patriotes congolais and Commander-in-Chief of its military wing, the Forces patriotiques pour la libération du Congo. He is charged with having committed war crimes in the Democratic Republic of the Congo, specifically enlisting, conscripting and using children under the age of 15 to participate actively in hostilities. There are 102 victims participating, through their legal representatives, in the *Lubanga* case.

9. Proceedings had been stayed following the finding of the Trial Chamber that a fair trial was not then possible because the prosecution had neither disclosed a significant body of confidentially obtained, potentially exculpatory evidence to the defence nor made the relevant materials available to the judges for their review. On 21 October 2008, the Appeals Chamber confirmed the stay of proceedings, finding at the same time that the Court could not order disclosure of information obtained by the Prosecutor under conditions of confidentiality without the consent of the information providers. Over a period of five months, the prosecution, having obtained the consent of the relevant information providers, disclosed those materials or made them available to the judges who could determine the appropriate method of disclosure for each document. On 18 November 2008, the Chamber found that the prosecution had met its obligations and that the trial could proceed.

10. The prosecution presented its evidence from 26 January until 14 July 2009, tendering 119 items of evidence. Thirty witnesses gave testimony before the Court, 28 of whom were called by the prosecution and 2 by the Chamber itself. Protection of witnesses was a major issue before and during the trial. Among the witnesses, 19 were included in the International Criminal Court Protection Programme, including 8 vulnerable witnesses who testified with in-court protective measures (e.g., the use of pseudonyms, voice and face distortion and partially closed sessions) and other special measures (e.g., screened from viewing the accused, allowed to testify in free narrative, psychosocial support in court and frequent breaks). Other less vulnerable witnesses testified with in-court protective measures only. Four witnesses gave full testimony publicly. While some witnesses were shielded from the public as a protection measure, the accused and his defence counsel were able to see all witnesses in Court during their testimony and to know their identities. The defence cross-examined all witnesses called by the prosecution. The defence is scheduled to begin the presentation of its evidence in October 2009.

B. *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui* (situation in the Democratic Republic of the Congo)

11. On 26 September 2008, Pre-Trial Chamber I, comprising Judges Akua Kuenyehia, Anita Ušacka and Sylvia Steiner, confirmed charges brought by the Prosecutor against Germain Katanga and Mathieu Ngudjolo Chui. The Chamber confirmed seven counts of war crimes (wilful killing, using children to participate actively in hostilities, sexual slavery, rape, attacking civilians, pillaging and destroying the enemy's property) and three charges of crimes against humanity (murder, sexual slavery and rape). The Chamber declined to confirm two counts of war crimes (cruel or inhuman treatment and outrages upon personal dignity) and one count of crimes against humanity (inhumane acts) charged by the Prosecutor.

12. Following the confirmation of charges, the Presidency constituted Trial Chamber II, comprising Judges Fatoumata Dembele Diarra, Fumiko Saiga (replaced on her passing by Judge Hans-Peter Kaul) and Bruno Cotte, and assigned the case of Mr. Katanga and Mr. Ngudjolo Chui to it for trial. The Trial Chamber and the parties began preparations for the trial, dealing in particular with procedural matters related to the disclosure of evidence and the protection of witnesses and information. The trial is scheduled to start on 24 September 2009.

13. Mr. Katanga challenged the admissibility of the case against him, arguing that he had previously been subject to legal proceedings for the same crimes in the Democratic Republic of the Congo. Trial Chamber II held a public hearing on the issue, during which representatives of the Democratic Republic of the Congo, including the Minister of Justice, participated, along with the parties and participants in the case. On 12 June 2009, the Chamber dismissed Mr. Katanga's challenge, finding that the national authorities had not opened any investigation into the attack for which Mr. Katanga was being prosecuted before the Court. Mr. Katanga subsequently appealed this decision. The appeal was pending at the time of submission of the present report.

C. *The Prosecutor v. Jean-Pierre Bemba Gombo* (situation in the Central African Republic)

14. A hearing to confirm eight charges brought by the Prosecutor against Jean-Pierre Bemba Gombo began on 12 January 2009 before Pre-Trial Chamber III, comprising Judges Ekaterina Trendafilova, Hans-Peter Kaul and Fumiko Saiga (the latter being replaced on her passing by Judge Cuno Tarfusser). On 3 March 2009, the Chamber adjourned the hearing, requesting the Prosecutor to consider amending the charges, given that the facts might establish a different form of criminal responsibility (command responsibility) than that charged. The Prosecutor subsequently added this additional form of criminal responsibility. On 15 June 2009, Pre-Trial Chamber II confirmed three charges of war crimes (murder, rape and pillage) and two charges of crimes against humanity (murder and rape) against Mr. Bemba in his capacity as a military commander but not, as originally charged, as a co-perpetrator. The Chamber declined to confirm the charge of torture as a war crime, owing to the lack of precision of the document containing the charges. The Chamber declined also to confirm the charges of torture as a crime against humanity and the war crime of outrages upon personal dignity, as it considered that those

charges were fully subsumed in the count of rape and that to include them would amount to cumulative charging. On 22 June 2009, the prosecution applied for leave to appeal the Chamber's decision to decline to confirm the charges.

D. *The Prosecutor v. Omar Hassan Ahmad Al-Bashir* (situation in Darfur, the Sudan)

15. On 4 March 2009, Pre-Trial Chamber I, comprising Judges Akua Kuenyehia, Sylvia Steiner and Anita Ušacka, issued a warrant of arrest against Mr. Omar Hassan Ahmad Al-Bashir, President of the Sudan, in relation to the situation in Darfur. The Chamber determined that there were reasonable grounds to believe he had committed crimes within the jurisdiction of the Court, namely five counts of crimes against humanity (murder, extermination, forcible transfer, torture and rape) and two counts of war crimes (attacking civilians and pillaging). The Chamber found that there was not sufficient evidence to sustain charges of genocide. For those charges that were confirmed, the Chamber determined that Mr. Al-Bashir's status as Head of a State not party to the Rome Statute had no effect on the Court's exercise of jurisdiction.

16. On 10 March 2009, the prosecution applied for leave to appeal in relation to the genocide charges. On 24 June, Pre-Trial Chamber I granted leave to appeal on the issue of whether the Chamber had applied the wrong legal test in relation to the correct standard of proof required for issuing a warrant of arrest. On 6 July, the prosecution submitted its appeal. That appeal was pending at the time of submission of the present report.

17. On the instruction of the Chamber, the Registrar transmitted requests for cooperation for the arrest and surrender of Mr. Al-Bashir to the Sudan, to all States parties to the Rome Statute and to all Security Council members not party to the Rome Statute. In issuing the decision, the Chamber concluded that, according to Security Council resolution 1593 (2005), taken together with Article 25 of the Charter of the United Nations, the Sudan was obligated to cooperate with the Court, including by arresting and surrendering Mr. Al-Bashir. The Chamber also directed the Registrar to prepare and transmit requests for cooperation to any other State as might be necessary to ensure the arrest of Mr. Al-Bashir.

E. *The Prosecutor v. Bahr Idriss Abu Garda* (situation in Darfur, the Sudan)

18. On 20 November 2008, the Prosecutor brought an application for arrest warrants or, in the alternative, should the suspects express willingness to cooperate, summons to appear in a third case in relation to the situation in Darfur. The Prosecutor alleged that three rebel commanders were responsible for crimes committed against African Union peacekeepers in Haskanita, Darfur, on 29 September 2007. On 7 May 2009, Pre-Trial Chamber I issued a summons to appear for Bahr Idriss Abu Garda for crimes allegedly committed in the attack. The Chamber found that there were reasonable grounds to believe he had committed crimes within the jurisdiction of the Court, specifically three counts of war crimes (murder, attacking personnel or objects involved in a humanitarian assistance or peacekeeping mission and pillaging). The Chamber concluded that a summons to

appear would be sufficient to ensure the appearance of Mr. Abu Garda before the Court. Mr. Abu Garda made his initial appearance on 18 May 2009. He is scheduled to appear again on 12 October 2009 for a hearing on confirmation of the charges.

F. *The Prosecutor v. Joseph Kony, Vincent Otti, Okot Odhiambo and Dominic Ongwen* (situation in Uganda)

19. Warrants of arrest have been outstanding for four alleged members of the Lord's Resistance Army in the situation in Uganda since July 2005.

20. The prosecution submitted information to Pre-Trial Chamber II on the reported death of Vincent Otti, allegedly executed upon the instructions of Joseph Kony. No decision was taken, and the warrant remained in effect.

21. In October 2008, Pre-Trial Chamber II, comprising (until 10 March 2009) Judges Mauro Politi, Fatoumata Dembele Diarra and Ekaterina Trendafilova, initiated proceedings on the admissibility of the case. In accordance with the principle of complementarity underlying the Rome Statute, a case is inadmissible before the Court if it is being investigated or prosecuted by a State, unless the State is unwilling or genuinely unable to carry out the investigation or prosecution. The Chamber noted that Uganda and the Lord's Resistance Army had concluded an agreement (not yet signed), the annexure to which provided for the establishment of a special division of the High Court to "try individuals who are alleged to have committed serious crimes during the conflict" in Uganda.[1] As none of the suspects were represented by counsel, the Chamber appointed counsel for the defence and invited observations from Uganda, the Prosecutor, counsel for defence and victims on the admissibility of the case. The Chamber subsequently granted leave to two non-governmental organizations to submit observations as amici curiae.

22. On 10 March 2009, the Chamber, having considered the various submissions made, issued its decision on admissibility, reaffirming that it was the Court that had the responsibility for determining whether a case was inadmissible. The Chamber concluded that the scenario against which the admissibility of the case had to be determined remained the same as at the time of the issuance of the warrants, that is, one of total inaction on the part of the relevant national authorities. The Chamber therefore found the case to be admissible at that stage. Counsel for the defence subsequently appealed the decision. At the time of the present report, the appeal was pending.

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[1] Decision initiating proceedings under article 19, requesting observations and appointing counsel for the defences, *The Prosecutor v. Joseph Kony, Vincent Otti, Okot Odhiambo and Dominic Ongwen*, ICC-02/04-01/05-320 (quoting the "Annexure to the Agreement on Accountability and Reconciliation signed between the Government of the Republic of Uganda and the Lord's Resistance Army/Movement" on 19 February 2008).

G. Outstanding warrants of arrest

23. At the time of submission of the present report, eight warrants of arrest were outstanding, namely, for:

(a) In the situation in Uganda: Joseph Kony, Vincent Otti, Okot Odhiambo and Dominic Ongwen;

(b) In the situation in the Democratic Republic of the Congo: Bosco Ntaganda;

(c) In the situation in Darfur: Omar Hassan Ahmad Al-Bashir, Ahmad Harun and Ali Kushayb.

24. The warrants of arrest have been outstanding since 2005 in the situation in Uganda, since 2006 in the case of Mr. Ntaganda, since 2007 in the cases of Mr. Harun and Mr. Kushayb and since March 2009 in the case of Mr. Al-Bashir. The Court has issued requests for cooperation in the arrest and surrender of each of those individuals to relevant States. States parties and other States that have legal obligations to cooperate with the Court are required to comply with those requests.

III. Investigations and analysis

A. Investigations

1. Situation in the Democratic Republic of the Congo

25. During the reporting period, the prosecution conducted a total of 34 missions to eight countries for trial preparations and investigations related to the ongoing cases in the situation in the Democratic Republic of the Congo: *The Prosecutor v. Thomas Lubanga Dyilo*, *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, and the investigation of a third case focusing on alleged crimes committed in the North and South Kivu provinces.

26. From 8 to 11 July 2009, the Prosecutor visited Bunia and the Ituri district in the Democratic Republic of the Congo. He met with leaders and representatives from all communities. Through a series of town hall meetings, he also met with victims, representatives of civil society and the local population.

(a) *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*

27. The Office of the Prosecutor conducted 23 missions to the Democratic Republic of the Congo and to five other countries in the context of the case against Germain Katanga and Mathieu Ngudjolo Chui. They included one forensic mission to the village of Bogoro, Ituri district, conducted with the assistance of the United Nations and States parties. The mission included the examination of a crime scene, the collection of imagery evidence and the exhumation and examination of human remains.

(b) The case of the Kivu provinces

28. In September 2008, the Prosecutor announced the opening of a third case in the Democratic Republic of the Congo, focusing on alleged crimes committed in the

Kivu provinces by a multiplicity of perpetrators and groups (including the Forces démocratiques de libération du Rwanda, the Congrès national pour la défense du peuple, the regular forces and the Mai-Mai), including numerous reports of sexual crimes. Eight missions were conducted inside or outside the Democratic Republic of the Congo to collect information in the context of this new case.

29. Preliminary consultations and meetings with external actors and observers were organized before and after the opening of this third investigation, including two missions to the Democratic Republic of the Congo to contribute to the case selection. Investigators travelled to and worked in the Kivus to undertake an assessment on issues relating to security, protection and logistics.

30. Other missions, including a mission to Rwanda, were conducted in order to discuss access to information and complementarity matters in relation to this third investigation.

31. The Office of the Prosecutor continued to work in close collaboration with State and non-State partners in and outside of the region. Given the particular characteristics of the alleged attacks, the Office considered ways to facilitate investigations by the Democratic Republic of the Congo judiciary and contributions to *dossiers d'instruction* against perpetrators. In the opinion of the Office, that will require enhanced protection for witnesses and the judiciary. On 11 and 12 June 2009, in Goma, the Office, along with other actors in the region working on sexual and gender-based violence, discussed in a conference organized by the European Union programme REJUSCO (Restauration de la justice à l'est de la République démocratique du Congo), with the University of Goma and the Université Libre des Pays des Grand Lacs, how to effectively assist sexual violence victims and to prevent and prosecute sexual violence crimes in the Democratic Republic of the Congo.

2. Situation in Uganda

32. The Office of the Prosecutor conducted investigative activities, including eight missions to six countries, in relation to the situation in Uganda. The Office collected a range of information on crimes allegedly being committed by the Lord's Resistance Army in the Democratic Republic of the Congo, the Sudan and the Central African Republic. According to information received by the Office, the incidence of alleged crimes rose sharply from September 2008, as the Lord's Resistance Army, operating increasingly freely across a wide area between Garamba National Park in the Democratic Republic of the Congo and border areas of southern Sudan close to the Central African Republic, put into operation plans to expand their numbers by several hundred through the abduction of civilians, primarily children. The Office received reports of particularly savage attacks taking place in December 2008 and January 2009, with the killing and abduction of several hundred people in a series of raids on towns and villages across a broad area of the Democratic Republic of the Congo and southern Sudan. The reports indicated that there may have been more than 1,000 deaths, more than 1,500 abductions and more than 200,000 persons internally displaced as a result of Lord's Resistance Army activity in the period covered by the present report.

33. The Office continued its efforts to galvanize support for the arrest of suspects sought by the Court. With a view to cutting off the supply and support network of the suspects, the Office followed up on its requests to a number of States for

information on those providing the Lord's Resistance Army with supplies and encouraged States to take action to deter such support.

34. On 13 July 2009, the Prosecutor travelled to Kampala and met with Yoweri Museveni, President of Uganda; Amama Mbabazi, Minister for Security; Crispus Kiyonga, Minister of Defence; Oryem Okello, Minister of State for International Affairs; and Kiddu Makubuya, Attorney-General. He shared with them the need for enhanced international support for arrest efforts, emphasizing the Security Council presidential statement of 22 December 2008 (S/PRST/2008/48).

35. The Office also analysed information in relation to alleged crimes committed by the Uganda People's Defence Forces and related national proceedings.

3. Situation in the Central African Republic

36. From 1 August 2008 to 14 July 2009, the Office of the Prosecutor carried out 49 missions to six countries in relation to the situation in the Central African Republic. The Office gathered evidence with a view to establishing responsibility for the crimes committed in 2002 and 2003. The Office performed forensic activities in Bangui (exhumation and autopsy), with cooperation extended by the Central African authorities and a number of partners. The Office continued to closely monitor allegations of crimes committed since the end of 2005 and whether any investigation and prosecution has been, or is being, conducted with respect to crimes potentially falling under the Court's jurisdiction.

4. Situation in Darfur, the Sudan

37. During the reporting period, the Office of the Prosecutor conducted 30 missions to 13 countries. In accordance with Security Council resolution 1593 (2005), the Prosecutor presented his eighth and ninth reports to the Council on 3 December 2008 and 5 June 2009, respectively, on the status of the investigation into the situation in Darfur.

38. In his briefing to the Security Council on 3 December 2008, the Prosecutor reported that the Government of the Sudan continued not to comply with its legal obligations under Council resolution 1593 (2005) to enforce the judicial decisions of the Court.

39. The Prosecutor emphasized that execution of arrest warrants required concrete decision-making. He stated that, in accordance with Security Council resolution 1593 (2005), the Government of the Sudan, as the territorial State, had the legal duty and the capacity to execute the warrants but that the Council, other States, the United Nations and regional organizations must act to ensure such arrests by severing all non-essential contact with individuals subject to warrants of arrest and refraining from providing any support to the suspects.

40. In his briefing on 5 June 2009, the Prosecutor updated the Security Council on the issuance of the arrest warrant against Mr. Al-Bashir and the summons to appear for Mr. Abu Garda. He added that he would inform the Council of further investigations, if any, in December 2009. The Prosecutor stated that, should the crimes stop, there would be no need for further investigations.

41. Following its application in the Haskanita case, the Office of the Prosecutor's tracking cell worked for six months with a variety of actors to locate and facilitate

the voluntary surrender of the alleged perpetrators. Following the initial appearance of Abu Garda on 18 May 2009, the Office highlighted the assistance of a number of African and European States that had worked together with the Office of the Prosecutor during the previous six months, including the Netherlands, Chad, Senegal, Nigeria, Mali, the Gambia and others.

42. On 7 July 2009, the Prosecutor travelled to Addis Ababa, where he met with the members of African Union High-Level Panel on Darfur, following an invitation by the Chair of the Panel, Thabo Mbeki, former President of South Africa. In order to secure the cooperation of all actors, the Prosecutor also travelled to Doha on 30 May 2009, where he met with the Prime Minister and Minister for Foreign Affairs of Qatar, Sheikh Hamad bin Jassim bin Jabr Al-Thani.

43. Owing to the security conditions in the Sudan, activities continued to be conducted in African and European countries in closed meetings with representatives of the relevant social groups in Darfur and Khartoum and with members of the diaspora. The content of warrants of arrest, the reports by the Office of the Prosecutor to the Security Council and the rights of victims to participate in the proceedings were among the subjects discussed during these interactive sessions.

B. Analysis activities

44. The Office of the Prosecutor monitored proactively all information on crimes potentially falling within the jurisdiction of the Court. The Office analysed communications by individuals and groups. As at 30 June 2009, the Office had received a total of 8,242 communications relating to article 15 of the Rome Statute, 4,870 of which were received between 1 August 2008 and 30 June 2009. Of these new communications, 3,823 related to the situation in South Ossetia, Georgia. Of the remaining 1,047, 58 per cent (608) were considered as not providing any basis for the Office of the Prosecutor to take further action.

45. Six situations under analysis by the Office of the Prosecutor have been made public: Afghanistan, Colombia, Côte d'Ivoire, Georgia, Kenya and Palestine. Afghanistan, Colombia, Georgia and Kenya are all States parties to the Rome Statute. The Office of the Prosecutor continued its policy of making its monitoring activities public, subject to confidentiality requirements, when it believes it can contribute to preventing crimes.

46. In relation to Afghanistan, the Office analysed alleged conduct by all actors involved. The Office met, outside of Afghanistan, with Afghan officials and representatives of both organizations and individuals. The Office sent requests for information to the Government of Afghanistan and the Afghan Independent Human Rights Commission on 9 June 2008. The Prosecutor has not received an answer to those requests.

47. The Office continued the ongoing examination of alleged crimes falling within the jurisdiction of the Court in Colombia. The Office analysed information on investigations and proceedings being conducted in Colombia against paramilitary leaders, politicians, guerrilla leaders and military personnel allegedly responsible for crimes that may fall under the jurisdiction of the Court. The Office also analysed allegations of the existence of international support networks assisting armed groups

committing crimes within Colombia. The Prosecutor paid a visit to Colombia from 25 to 27 August 2008, at the invitation of the Government of Colombia and the country's Public Prosecutor's Office. The Prosecutor met with senior officials from the Government, the Prosecutor's Office and the Supreme Court of Justice, as well as representatives of Colombian civil society. During his stay in the country, the Prosecutor accompanied the Public Prosecutor's Office on an exhumation in Urabá.

48. The situation in Georgia came under preliminary examination on 14 August 2008. The Prosecutor General of Moscow, whose State is not a party to the Statute, has sent 3,817 communications to the Court. The Minister of Justice of Georgia visited the Office in August 2008. The Prosecutor requested information from the Governments of the Russian Federation and Georgia on 27 August 2008. The Russian authorities replied to the request on 24 October 2008, and the Georgian authorities responded on 14 November 2008. The Office of the Prosecutor conducted a visit to Georgia in November 2008.

49. The situation in Kenya has been under preliminary examination by the Office since February 2008. The Prosecutor has received numerous article 15 communications on the post-election violence. On 3 July 2009, an agreement was reached in The Hague, the Netherlands, between a high-level delegation from the Government of Kenya, led by Justice Minister Kilonzo, and the Office of the Prosecutor. Both parties agreed that, in order to prevent new violence during the next election period, those most responsible for the post-election violence must be held accountable. The Kenyan authorities agreed that, should efforts to conduct national proceedings fail, they would refer the situation to the International Criminal Court in accordance with article 14 of the Rome Statute within one year. On 9 July 2009, the African Union Panel of Eminent African Personalities, chaired by Kofi Annan, submitted to the Office of the Prosecutor material of the Commission of Inquiry into the Post-Election Violence headed by Kenyan judge Philip Waki. The Prosecutor subsequently received two reports from the Attorney-General of Kenya, on witness protection measures and on police investigations.

50. The Court has jurisdiction over the situation in Côte d'Ivoire by virtue of a declaration submitted under article 12, paragraph 3, by the Ivorian Government on 1 October 2003. The declaration accepts the jurisdiction of the Court as at 19 September 2002. The most serious alleged crimes, including alleged widespread sexual violence, were committed between 2002 and 2005. The Office conducted a visit to Côte d'Ivoire in July 2009.

51. On 22 January 2009, the Palestinian National Authority lodged a declaration with the Registrar relating to article 12, paragraph 3, of the Rome Statute, which allows States not parties to the Statute to accept the Court's jurisdiction. Owing to the uncertainties of the international community with respect to the existence or non-existence of a State of Palestine, the Registrar accepted the declaration without prejudice to a judicial determination on the applicability of article 12, paragraph 3. Between 28 December 2008 and 30 June 2009, the Office of the Prosecutor received 358 article 15 communications related to the situation of Israel and the Palestinian territories. The Office began to examine all issues related to its jurisdiction, including whether the declaration by the Palestinian Authority accepting the exercise of jurisdiction by the Court meets statutory requirements, whether crimes within the Court's jurisdiction have been committed and whether there are national proceedings in relation to alleged crimes. The Office received a number of

communications, including the *Report of the Independent Fact-Finding Committee on Gaza: No Safe Place*, which was presented to the League of Arab States on 30 April 2009 and which was sent to the Prosecutor by the Secretary-General of the League, Amre Moussa. The Palestinian National Authority indicated that it would send a supporting submission by September 2009.

IV. International cooperation

A. Cooperation with the United Nations

52. Cooperation with the United Nations continued to be essential to the Court institutionally and in the different situations and cases.

53. Logistical support from the United Nations greatly facilitated the work of the Court in the field. Peacekeeping missions, in particular the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC), assisted the Court in many aspects (e.g., transportation, provision of information, communication support and the use of United Nations facilities) in accordance with the memorandum of understanding between the Court and MONUC. It is hoped that cooperation arrangements can also be arrived at with the United Nations Mission in the Central African Republic and Chad (MINURCAT) in the Central African Republic. The Office of the United Nations High Commissioner for Refugees provided support with respect to the relocation of witnesses.

54. The Court benefited from the expertise of relevant United Nations offices, for example in the area of witness protection, where the Court worked with the Office of the United Nations High Commissioner for Human Rights on protection techniques, with the United Nations Office on Drugs and Crime in strengthening national witness protection programmes and with the United Nations Children's Fund on training sessions that are sensitive to children.

55. The Office of Legal Affairs continued to play the leading role in facilitating cooperation, in particular with respect to the testimony of United Nations officials before the Court, the provision of information and the mainstreaming of the Court throughout the United Nations system. In close cooperation with the Office of Legal Affairs, the Court organized a round table in July 2009 involving staff from relevant United Nations bodies.

56. Regular, close contact between the Court and United Nations Headquarters was instrumental in facilitating cooperation. In this regard, the Court's New York liaison office, as the primary interlocutor for the United Nations Secretariat, played an essential role in dealing with cooperation issues. The head of the liaison office attended sessions of the Security Council and, pursuant to article 4 of the Relationship Agreement, participated in sessions of the General Assembly concerning the work of the Court. The liaison office also facilitated visits of senior Court officials to their counterparts in New York, followed developments of relevance to the Court in diverse United Nations meetings and updated Court officials accordingly, and provided information about the Court to Permanent Missions and to various United Nations departments. As issues related to the work of the Court continued to gain prominence at the United Nations, the head of the liaison office was increasingly called upon to provide information.

57. In addition to operational and logistical assistance, the public and diplomatic support of the United Nations continued to be important to the Court. Such support contributed to enhancing awareness of the importance of international cooperation and support from States and other actors. Statements explaining the role of the Court, in particular in the context of the efforts of the United Nations to pursue justice, such as those statements included in the latest report of the Secretary-General on enhancing mediation and its support activities (see S/2009/189, para. 37), helped to clarify the law for those involved in peace negotiations or who might otherwise deal with questions related to the Court.

58. Pursuant to article 10 of the Relationship Agreement, the United Nations provided facilities and services for the first and second resumptions of the seventh session of the Assembly of States Parties to the Rome Statute, held at United Nations Headquarters from 19 to 23 January and 9 to 13 February 2009, respectively. In the context of the plan of action for achieving universality and full implementation of the Rome Statute,[2] the United Nations facilitated the holding of a seminar on 19 May 2009 at United Nations Headquarters in New York on the issue "International criminal justice: the role of the International Criminal Court".

59. Pursuant to article 123, paragraph 1, of the Rome Statute, the Secretary-General sent invitations to States for the Review Conference of the Rome Statute, scheduled to be held from 31 May to 11 June 2010 in Kampala. The secretariat of the Assembly of States parties is liaising with the United Nations Office at Nairobi on issues related to the organization of the Conference and the servicing thereof.

B. Cooperation with and assistance from States, other international organizations and civil society

60. The Court made numerous requests to States parties, other States and international organizations for cooperation or assistance. Pursuant to article 87 of the Rome Statute, the content of such requests and related communications is often confidential in nature.

61. In addition to specific requests, the Court continued to work to develop its structural arrangements for cooperation, especially with respect to investigative activities, witness protection, the enforcement of sentences and the provisional release of accused persons pending trial. During the reporting period, no new agreements were concluded with States on the protection of witnesses or the enforcement of sentences. The need for agreements on protection became more urgent as the number of protected persons continued to increase with each case. With the possibility of sentences being handed down in 2010, the need for agreements on enforcement also increased.

62. The Prosecutor met with the Secretary-General of the International Criminal Police Organization (INTERPOL), Ronald Noble, on 2 September 2008 to pursue a cooperation agreement between the Office of the Prosecutor and INTERPOL.

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[2] *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, fifth session, The Hague, 23 November to 1 December 2006* (International Criminal Court publication, ICC-ASP/5/32), part III, resolution ICC-ASP/5/Res.3, annex I.

63. Efforts to finalize a memorandum of understanding between the African Union and the Court continued, and discussions continued on a possible cooperation agreement with the Organization of American States. In 2009, following the request of the Assembly of States Parties to the Rome Statute, the Court sent a mission to Addis Ababa to explore the desirability and feasibility of establishing an African Union liaison office. The Court reported on this matter to the Assembly of States Parties to the Rome Statute and is awaiting the decision of the Assembly during its forthcoming eighth session, in November 2009.

64. The Court met regularly with representatives of States, international organizations and civil society to update them on the work of the Court and to discuss items of mutual interest. The Court held two diplomatic briefings in The Hague and one briefing in Brussels. Officials and staff of the Court also met often with representatives of States at the United Nations and elsewhere and provided them with updates on the work of the Court.

65. Representatives of the Court participated in preparatory meetings leading to the Consultative Conference on International Criminal Justice organized by the MacArthur Foundation, which took place from 9 to 11 September 2009, with the participation of the President, Prosecutor and Registrar. Two strategic-level meetings were held between the Court and representatives of civil society organizations in The Hague, in addition to regular, ongoing contacts between the Court and representatives of civil society.

V. Institutional developments

A. Elections and appointments

66. Six judges were elected by the Assembly of States Parties to the Rome Statute. On 11 March 2009, Judges Joyce Aluoch, Sanji Mmasenono Monageng, Christine van den Wyngaert and Cuno Tarfusser took up office, while Judge Fumiko Saiga, initially elected in 2007 to finish an unexpired term of a previous judge, began a new term of office.[3] On 24 April 2009, Judge Saiga passed away. An election to fill two judicial vacancies will be held in November 2009.

67. On 11 March, following the solemn undertaking of the elected judges, the judges, meeting in plenary session, elected the Presidency of the Court. Judge Sang-Hyun Song was elected President, Judge Fatoumata Dembele Diarra was elected First Vice-President and Judge Hans-Peter Kaul was elected Second Vice-President. They will serve in those roles for a period of three years.

68. On 9 September 2008, the judges of the Court, meeting in plenary session, elected Didier Daniel Preira as the first Deputy Registrar of the Court. He began his five-year term of office on 17 October.

69. On 26 November 2008, the Office of the Prosecutor announced the appointment of Professor Catharine MacKinnon as Special Gender Adviser to the Prosecutor. On 19 June 2009, the Office announced the designation of Juan Méndez as Special Adviser to the Prosecutor on crime prevention. Both individuals are working *ad honorem*.

[3] Judge Mohamed Shahabuddeen, having been elected by the Assembly, resigned before taking office.

B. Assistance to the Special Court for Sierra Leone

70. In accordance with a memorandum of understanding concluded on 13 April 2006, the Court continued to provide courtroom services and facilities, detention services and facilities and other related assistance to the Special Court for Sierra Leone to enable the latter to conduct the trial of Charles Taylor in The Hague. Through an exchange of letters in September 2008, the Court and the Special Court agreed to extend the memorandum of understanding until November 2010 so as to enable the Special Court to conclude the trial and appeals proceedings.

VI. Conclusion

71. The Court experienced considerable developments during the reporting period, with the commencement of the first trial, the confirmation of charges against three individuals, the first voluntary appearance of a suspect pursuant to a summons to appear and the issuance of a warrant of arrest against a Head of State. The judges issued decisions on fundamental aspects of the Rome Statute, such as the principle of complementarity and the rights of the accused. The system set up by States in the Rome Statute continued to operate effectively in practice. Challenges nevertheless remained, none more evident than the execution of the eight outstanding warrants of arrest.

United Nations A/64/357

General Assembly

Distr.: General
23 September 2009

Original: English

Sixty-fourth session
Agenda item 69 (c)
Promotion and protection of human rights: human rights situations and reports of special rapporteurs and representatives

The situation of human rights in the Islamic Republic of Iran*

Report of the Secretary-General

Summary

The present report, submitted in accordance with General Assembly resolution 63/191, is intended to provide an update to the previous report of the Secretary-General on the situation of human rights in the Islamic Republic of Iran (A/63/459). The present report covers developments in the human rights situation in the Islamic Republic of Iran since June 2008, showing broad patterns and trends and drawing upon that country's international treaty obligations and the observations made by treaty monitoring bodies and the special procedures of the Human Rights Council. The report focuses on the special concerns identified by the Assembly in resolution 63/191 but also includes an outline of human rights developments following the 2009 presidential election in the Islamic Republic of Iran.

* The present report was submitted after the deadline as a result of consultations with the Member State.

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I. Introduction

1. The present report is submitted in accordance with General Assembly resolution 63/191, in which the Assembly requested the Secretary-General to submit to it at its sixty-fourth session an update on the situation of human rights in the Islamic Republic of Iran.

2. The report is intended to provide an update to the previous report of the Secretary-General (A/63/459) and show patterns and trends in the human rights situation in the Islamic Republic of Iran since June 2008, based on that country's international treaty obligations and drawing on observations made by treaty monitoring bodies and the special procedures of the Human Rights Council.[1] While the present report gives special focus to the concerns identified by the General Assembly in resolution 63/191,[2] it also includes a section on human rights developments following the 2009 presidential elections.

II. Legal and institutional framework of the Islamic Republic of Iran relevant to the promotion and protection of human rights

3. As noted in the previous report of the Secretary-General to the General Assembly, the 1979 Constitution of the Islamic Republic of Iran guarantees a wide range of human rights and fundamental freedoms. In practice, however, there are a number of serious impediments to the full protection of human rights and the independent functioning of the different institutions of the State.

4. The Iranian Constitution contains a comprehensive chapter on the rights of the people, which encompass civil and political rights, along with economic, social and cultural rights. The Penal Code and the Code of Criminal Procedure also provide various procedural guarantees aimed at ensuring due process of law and fair trial rights, although concerns in that area are noted in section IV.I below. A revised penal code is still being debated by the specialized commissions of the Islamic Consultative Assembly, or Majlis, but it includes a number of areas that would be incompatible with international human rights standards. According to the authorities, provisions providing for stoning have been removed from the draft by the Legal and Judiciary Committee, but the proposed law contains provisions that call for other forms of capital punishment, flogging and amputation of limbs. Once adopted by the Majlis, the new code will go to the Guardian Council for final review.

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[1] It should be noted that some concluding observations, for instance those of the Human Rights Committee in 1993, are now dated, owing to the long delay in periodic reporting by the Islamic Republic of Iran, although the concerns cited herein remain valid.

[2] The following thematic concerns were identified in that resolution: torture and cruel, inhuman or degrading treatment or punishment, including flogging and amputations; the continuing high incidence of executions carried out in the absence of internationally recognized safeguards, including public executions and executions of juveniles; stoning as a method of execution; women's rights; rights of minorities; freedom of peaceful assembly and association and freedom of opinion and expression; and failure to uphold due process rights and to respect the rights of detainees.

5. While the Constitution provides for a separation of powers between the executive, legislative and judicial functions, there are a number of institutional constraints on their independent functioning and their ability to protect human rights. The Supreme Leader, currently Ayatollah Ali Khamenei, supervises the executive, legislative and judicial branches and other key institutions (E/CN.4/2006/61/Add.3, para. 12). That is reinforced by the system of advisory councils provided for in the Constitution. In addition to the judiciary, described in the previous report, there are several other institutional mechanisms that provide opportunities for citizens to seek redress. Article 174 of the Constitution provides for a National General Inspectorate under the supervision of the head of the judiciary, which supervises the proper conduct of affairs and the correct implementation of laws by the administrative organs of the Government and reportedly handles individual complaints. Under article 90 of the Constitution, the legislature can also examine and investigate written complaints by the public against its own work and the work of the executive and the judicial branches. In addition, there are quasi-judicial institutions, including arbitration and dispute settlement councils, which settle large volumes of cases. Moreover, the Islamic Human Rights Commission, established in 1996, is a non-governmental body that monitors the human rights situation in the country. It has no representative status as a national institution nor has it been recognized by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights as complying with the Paris Principles relating to the status and functioning of national human rights institutions. Additionally, the Islamic Republic of Iran has established a human rights headquarters under the judiciary to facilitate international cooperation and coordinate among Government bodies on human rights-related matters.

III. Economic, social and cultural rights

6. As noted in my previous report, the Islamic Republic of Iran has made gains during the past decade in the area of economic, social and cultural rights, although significant disparities remain between urban centres and less-developed regions. Since the 1979 revolution, the Government has pursued socio-economic policies centred on Islamic values that focus very much on the redistribution of wealth and poverty reduction. According to the World Bank, the country's health and education indicators are among the best in the region.[3]

7. While the Islamic Republic of Iran is a party to the International Covenant on Economic, Social and Cultural Rights, it has not reported to the Committee on Economic, Social and Cultural Rights since 1993. In that year, the Committee raised concerns about the treatment of minority groups, discrimination against women and legislation and policies on cultural freedom (E/C.12/1993/7).

8. According to the latest available data in the 2007 human development report on the Islamic Republic of Iran,[4] the country's human development index rose from 0.649 in 1991 to 0.759 in 2005. That largely reflected increases in per capita income

[3] World Bank, "Iran Country Brief — June 2009".

[4] This report was prepared jointly by the United Nations Development Programme (UNDP) and the Islamic Republic of Iran's Management and Planning Organization but has yet to be published.

and the allocation of a large proportion of the public budget to social activities. A review of the Islamic Republic of Iran's performance in meeting the Millennium Development Goals found that the percentage of the population living on less than $1 a day had decreased from 0.9 per cent in 1999 to 0.2 per cent in 2005; the percentage living on less than $2 a day had also declined, from 7.3 per cent in 1999 to 3.1 per cent in 2005.

9. Those trends have reportedly slowed during recent years owing to high inflation[5] and increases in consumer prices, although those factors have been offset to some degree by State support. The Islamic Republic of Iran has an extensive social protection system that includes training and job-seeking assistance, health and unemployment insurance and disability and old-age pensions. Half of the poor in the Islamic Republic of Iran, about 4.5 million people or 1.5 million households, benefit from Government assistance, charity or other non-profit programmes.[3] Government spending and social programmes have been squeezed, however, by declining revenues with the drop in the price of oil; some 80 per cent of the Government's revenue comes from energy.[6] The World Bank also questions whether social programmes, particularly the provision of energy, medicine and basic staples, are adequately targeted at the poor.[3] It should be noted that fiscal policy and social programmes were the subject of active public debates among economists during the 2009 presidential election campaign.

10. As noted previously, the Islamic Republic of Iran has shown greatly improved results in the education sector. Government policies have been aimed at increasing enrolment ratios, extending educational opportunities to the poorest regions of the country and reducing gender gaps at all levels of education. Net enrolment in primary education steadily increased, from 85 per cent in 1990 to 98 per cent in 2005. Primary school dropout rates decreased from 13 per cent to 6.6 per cent during the same period. Literacy rates in the 15- to 24-year-old age group also increased and progressively equalized, rising from 92.2 per cent for males and 81.1 per cent for females in 1990 to 98.1 and 96.7 per cent, respectively, in 2005. Currently, women outnumber men at the university undergraduate level by a factor of two.[3] The Islamic Republic of Iran still faces challenges in dealing with a significant rise in its school-age population, providing adequate facilities in rural areas and ensuring the quality of education. The fourth five-year development plan envisages upgrading the quality of education at all levels, reforming education curricula and developing labour-market-oriented vocational training.

11. Employment remains an important challenge for the Government, with the labour supply growing by about 4 per cent, or 800,000 job-seekers, per year. Unemployment among women is especially acute; it rose from 26.8 per cent in 1996 to 40.6 per cent in 2001.

12. In the field of health, expansion of health facilities, particularly for primary health care, led to a significant improvement in life expectancy, which rose from 64.8 years for men and 65.8 years for women in 1991 to 70.5 years and 72.8 years, respectively, in 2004. The under-5 mortality rate also decreased, from 44 per 1,000 births in 1991 to 36 per 1,000 births in 2001. Maternal mortality resulting from complications in delivery was also reduced, from 54 to 37 per 100,000 live

[5] According to media sources, inflation reached 30 per cent in late 2008, up from 20 per cent earlier in the year.

[6] *The Economist*, "An axis in need of oiling", 23 October 2008.

births during the same period. The proportion of births attended by skilled health personnel increased to around 97.3 per cent. As a result of prioritizing primary health care, health outcomes in rural areas are almost equal to those in urban areas.[3]

13. In other sectors, however, there are greater regional disparities. In terms of the human development index, there is a gap of more than 2 percentage points between the most and least developed provinces. That appears to be driven primarily by income disparities resulting from a lack of employment opportunities, which in turn are contributing to migration from rural areas to the cities. Disparities are also recorded along gender lines (these will be analysed in more detail in section IV.F). Disaggregated data was not available on minority groups, although discrimination was reported against the Baha'i community. The Committee on Economic, Social and Cultural Rights, the International Labour Organization (ILO) Committee of Experts on the Application of Conventions and Recommendations and the special procedures mandate holders have previously expressed concern in that regard.

IV. Civil and political rights

14. Since June 2008, there have been negative developments in the area of civil and political rights. Local human rights activists have continued to engage in strong advocacy on human rights issues, and, during the election campaign, there was considerable public debate and media commentary. The year also saw, however, an increase in human rights violations targeting women, university students, teachers, workers and other activist groups, particularly in the aftermath of the elections. Members of various ethnic and minority groups faced harassment, violence and, in some cases, persecution. The independent media also experienced tightened restrictions, with publications suspended and websites blocked. The authorities also imposed restrictions on mobile telephone messaging and social networking websites, which became an important tool in opposition protests.

15. The death penalty continued to be widely applied, including in some cases involving juveniles. There were at least some cases of stoning and public execution, despite moves by the authorities to curb such practices. Cases of torture, amputation and flogging and suspicious deaths and suicides of prisoners while in custody were also reported. Information available on each of the thematic concerns identified in General Assembly resolution 63/191 is summarized in the following sections.

A. Human rights developments since the elections

16. On 12 June 2009, after a vigorous campaign featuring open and critical debates, the Iranian electorate went to the polls to elect a new president. The public debates before and after the election were a positive sign of vitality and dynamism in the civil and political life of the Islamic Republic of Iran, but the handling by authorities of the protests that followed has raised concerns about respect for freedom of expression, assembly and association, the use of force in policing demonstrations and the treatment of and due process afforded to detainees.

17. On 15 June 2009, following the announcement of President Mahmoud Ahmadinejad's victory, it was reported that tens of thousands of supporters of the other candidates took to the streets to protest the election result. Violence erupted at

the end of the demonstrations, and Iranian national television reported the death of seven persons. A number of reports indicated that demonstrations had taken place in other parts of the country. In comments to the press, the Secretary-General urged that the genuine will of the Iranian people should be reflected in a most transparent and fair and objective manner.[7] The Supreme Leader of the Islamic Republic of Iran, Ayatollah Ali Khamenei, asked all groups and candidates to accept the results of the election and, if there were any objections, to use legal channels to raise complaints. The initial 10-day period for complaints was extended by five days for additional examination. The Guardian Council subsequently ruled that the election would not be annulled but that votes would be recounted in areas where results were contested by presidential candidates.

18. On 19 June 2009, five independent United Nations experts[8] in a press statement voiced grave concern about the use of excessive police force, arbitrary arrests and killings. They noted that, while the protests had largely been peaceful, violent clashes with security forces had resulted in the death, injury and arrest of numerous individuals. The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression expressed grave concern that the recent arrests and the use of excessive police force against opposition supporters might be a direct attempt to stifle freedom of assembly and expression in the country. The Chairperson-Rapporteur of the Working Group on Arbitrary Detention highlighted the obligation of the Government to take all necessary measures to guarantee the right of everyone not to be deprived arbitrarily of his or her liberty and to have fair proceedings before an independent and impartial tribunal.

19. On 19 June 2009, the United Nations High Commissioner for Human Rights also issued a press statement expressing her concern about reports of an increasing number of arrests that might not be in conformity with the law and the possible illegal use of excessive force. She expressed particular concern about reported acts of violence by members of the Basij militia, adding that it was the responsibility of the Government to ensure that militia members and regular law enforcement agencies did not resort to illegal acts of violence.

20. The Iranian Government responded to the concerns of the United Nations High Commissioner for Human Rights, stating that more than 85 per cent of those eligible had cast their votes in a tranquil and peaceful atmosphere in favour of their candidates and that all four candidates had been given opportunities to express their policies and plans on radio and television. The Iranian Government also noted that the Guardian Council had reviewed the election complaints and taken appropriate action for recounting 10 per cent of ballots in particular regions or at random and that it had finally confirmed the result of election.

21. Despite measures taken by the security forces to prevent or break up the protests, tens of thousands of Iranian citizens continued to take part in various rallies across Tehran over several days. On 20 June, Neda Agha Soltan, a young

[7] http://www.un.org/apps/sg/offthecuff.asp?nid=1299. The Iranian authorities protested the Secretary-General's remarks.

[8] The five human rights experts were the Chairperson-Rapporteur of the Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and the Special Rapporteur on the situation of human rights defenders.

woman accompanying her teacher, was killed from a shot to the chest during a demonstration in Tehran. The incident received widespread international attention following its wide circulation via the Internet. The authorities dispute the circumstances under which she was killed and state that the case is being investigated. There is no accurate measure of the number of casualties during the protests, but numerous media reports have cited at least 20 people killed and many more injured during the demonstrations.

22. As the protests grew, numerous foreign media outlets reported that their websites had been blocked and that the Iranian authorities had implemented new restrictions that required journalists to obtain explicit permission before leaving the office to cover any story. Journalists were also banned from attending any unauthorized demonstrations. The authorities also sought to block the use of social networking and other websites that had been used to broadcast information and visual images of the protests internationally.

23. On 22 June, the Secretary-General issued a statement expressing dismay at the post-election violence, particularly the use of force against civilians, which had led to the loss of life and injuries. He called on the authorities to respect fundamental civil and political rights, especially freedom of expression, freedom of assembly and freedom of information. He called for an immediate stop to the arrests, threats and use of force and reiterated his hope that the democratic will of the people of the Islamic Republic of Iran would be fully respected. He urged the Government and the opposition to resolve peacefully their differences through dialogue and legal means. On 23 June, a spokesman for the Iranian Foreign Ministry said that he rejected the Secretary-General's statement.

24. In the aftermath of the election, a number of special procedures mandate holders signed numerous urgent action appeals regarding the alleged arrest and arbitrary detention of several hundred opposition activists and demonstrators. The arrests had allegedly been carried out by Iranian police, security forces, the Basij militia and plain-clothes officers of the intelligence services during demonstrations or at private residences. The vast majority of the people arrested had reportedly been deprived of any contact with members of their family and had not had access to legal council.

25. On 7 July, six special procedures mandate holders[9] issued a joint statement expressing grave concern about mass arrests. The rapporteurs noted that hundreds of individuals, including human rights defenders, journalists, students, clerics and opposition supporters, had been injured and arrested following clashes with security forces and members of the Basij militia and that, since 12 June, at least 20 people had been killed and hundreds of others seriously injured in clashes with security forces, which had allegedly used live ammunition and rubber bullets to disperse protests. The six experts reiterated their grave concern about reports of killings, ongoing arrests, use of excessive police force and the ill-treatment of detainees. The experts strongly urged the Government of the Islamic Republic of Iran to uphold its obligations under international law to protect human rights in the country.

26. On 1 August, the trial of about 100 defendants commenced on a variety of charges ranging from participation in the unrest, leading the riots, acting against

[9] The six human rights experts were those mentioned in footnote 8 above, plus the Chairperson-Rapporteur of the Working Group on Enforced and Involuntary Disappearances.

national security, disturbing public order, damaging public and Government property and relations with anti-revolutionary groups.

27. The head of the judiciary issued a directive stating that all remaining cases should be finalized in August 2009; however, that directive has not been complied with, as the trials have continued into September 2009. The Iranian authorities also noted that, as a result of the report of the senior inspection team from the office of the Supreme Leader, a detention centre was shut down owing to a lack of adequate medical and health requirements.

28. On 13 August, three special procedures mandate holders[10] expressed serious concern over reports of detainees being subjected to torture and harsh interrogations in order to obtain confessions. The three experts said that the accused included lawyers, journalists and other human rights defenders, as well as members of the opposition, who had protested in the aftermath of the presidential elections.

B. Torture and cruel, inhuman or degrading treatment or punishment, including flogging and amputations

29. While article 38 of the Constitution of the Islamic Republic of Iran prohibits torture, the country's steps to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 2002 were rejected by the Guardian Council, reportedly because of perceived conflicts with Islamic rules and principles.[11]

30. Since June 2008 the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has sent numerous communications to the Iranian authorities regarding serious allegations that had been received concerning torture and other cruel, inhuman or degrading treatment or punishment. In August 2008 two separate allegation letters were sent by the Special Rapporteur regarding the alleged torture of Mahdi Hanafi, a student who had reportedly been beaten during his detention by police officers and subsequently died from injuries to the brain, and Ya'qub Mehrnehad, a journalist and activist working in defence of culture and civil rights who was charged with *mohareb* (enmity with God) and *mofsed fil arz* (corruption on earth) and was consequently executed on 4 August 2008. Mr. Mehrnehad had been the subject of a previous urgent appeal, sent on 15 February 2008 by the Special Rapporteur on torture and the Special Representative of the Secretary-General on the situation of human rights defenders. The Iranian authorities have stated that a forensic inquiry found no suspicious circumstances in the death of Hanafi, but that the case is still open and that legal remedies have yet to be exhausted. They state that Mr. Mehrnehad had been engaged in terrorist activities in the Sistan-Baluchistan region.

31. The Special Rapporteur on torture signed a number of urgent appeal letters during the same period. He cited a number of different torture methods, including

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[10] The Vice-Chairperson of the Working Group on Arbitrary Detention, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and the Special Rapporteur on the situation of human rights defenders.

[11] Torture and cruel, inhuman or degrading treatment or punishment are also prohibited by customary international law and by article 7 of the International Covenant on Civil and Political Rights, to which the Islamic Republic of Iran is a party.

sleep deprivation, beatings, stress positions and lack of access to health care. The individuals allegedly subjected to such treatment included members of student groups, religious groups, journalists, human rights defenders, union campaigners, social activists, individuals who had committed crimes as juveniles and individuals associated with various minority groups, including the Baha'i, Azerbaijani and Kurdish segments of the Iranian population.

32. The Special Rapporteur on torture issued an urgent appeal on 18 July 2008 regarding death sentences reportedly imposed on three ethnic Kurds: Farzad Kamangar (also known as Siamand), Ali Heydariyan and Farhad Vakili. According to the information received, the three men were arrested by Ministry of Intelligence officials in Tehran in July and August 2006. Farzad Kamangar was subsequently held incommunicado on terrorism-related charges at a series of different locations, including in Kermanshah, Sanandaj and Tehran. In the course of his detention, it was alleged that he was tortured, including by beating, flogging and subjection to electrical shocks. As a result of the treatment inflicted, he had to be transferred twice to prison clinics. The Iranian authorities denied the allegations of torture in most of those cases and responded that fair trials were conducted, with commensurate sentences issued. Amputation and corporal punishment, which are justified by the authorities as Islamic punishments, also remain a serious cause for concern.

C. Death penalty and public executions

33. In countries that have not abolished the death penalty, the death sentence may be imposed only for the most serious crimes in accordance with the law.[12] International human rights mechanisms have opined that most serious crimes were those where it could be shown that there was an intention to kill that had resulted in loss of life and that drug-related crimes and trafficking did not prima facie fall within that category.

34. In the Islamic Republic of Iran, the death penalty is imposed for certain *hudud* crimes, including adultery, incest, rape, fornication for the fourth time by an unmarried person, drinking alcohol for the third time, sodomy, sexual conduct between men without penetration for the fourth time, lesbianism for the fourth time, fornication by a non-Muslim man with a Muslim woman and false accusation of adultery or sodomy for a fourth time. Furthermore, the death penalty can be applied for the crimes of enmity with God (*mohareb*) and corruption on earth (*mofsed fil arz*) as one of four possible punishments. Under the category of *ta'zir* crimes, the death penalty can be imposed for "cursing the Prophet" (article 513 of the Penal Code). The death penalty can also be applied to such crimes as the smuggling or trafficking of drugs, murder, espionage and crimes against national security.

35. The special procedures received a large number of reports from various sources concerning individuals who had allegedly been executed as a result of drug-related offences and drug trafficking. While it is impossible for the Office of the United Nations High Commissioner for Human Rights (OHCHR) to verify all information that is received, the data does illustrate a worrying trend.

[12] International Covenant on Civil and Political Rights, art. 6.

36. As highlighted in the previous report of the Secretary-General, the spokesperson for the Iranian judiciary announced in January 2008 that the head of the judiciary, Ayatollah Shahroudi, had issued a circular banning public execution. On 11 July 2008, however, Amnesty International reported that it had received information regarding a public execution, the first of its kind since that order was issued. The Iranian authorities confirmed that two cases of public execution had taken place in the previous year in light of special circumstances and public sentiment. International human rights mechanisms have stated that executions in public add to the already cruel, inhuman and degrading nature of the penalty and can only have a dehumanizing effect on the victim and a brutalizing effect on those who witness the execution.

D. Stoning as a method of execution

37. On 30 July 2008, the Special Rapporteur on torture, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on violence against women, its causes and consequences signed an urgent appeal requesting information from the Iranian authorities about an allegation that eight women and one man had been sentenced to death by stoning for adultery. A joint urgent appeal letter was also sent on 21 January 2009 by the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on torture and the Special Rapporteur on violence against women in relation to two male individuals who were reportedly executed by stoning in Mashhad for adultery. The executions were later confirmed on 13 January 2009 by a spokesman for the judiciary. Although the head of the judiciary has issued a circular to prohibit stoning, those recent cases suggest that the authorities have not succeeded in eliminating that practice. The authorities noted, however, that in many other cases *qisas* punishments had been commuted to lighter punishments. In terms of international human rights norms, stoning constitutes an inhuman and degrading treatment.[13]

E. Executions of juveniles

38. The previous report of the Secretary-General, in line with General Assembly resolution 62/168, highlighted executions of juveniles as a specific area of concern. The Islamic Republic of Iran continues to carry out such executions despite efforts by the judiciary to curb the practice. The imposition of the death penalty on individuals who commit crimes while under the age of 18 is a breach of both the International Covenant on Civil and Political Rights[14] and the Convention on the Rights of the Child,[15] to which the Islamic Republic of Iran is a party.

39. According to Amnesty International, eight juvenile offenders were executed in 2008, and to date three have reportedly been executed in 2009. Amnesty International also reported that from 1990 to 2009 the Islamic Republic of Iran had executed 41 juveniles, which had accounted for more than half of all worldwide

[13] See CRC/C/15/Add.254, para. 45; CAT/C/QAT/CO/1, para. 12; A/HRC/10/44, para. 39; and E/CN.4/2006/5/Add.2, para. 68.

[14] Article 6, para. 5.

[15] Article 37 (a).

reported child executions recorded in the same period and made the Islamic Republic of Iran the nation with the highest number of juvenile executions.[16]

40. The United Nations High Commissioner for Human Rights issued a press statement on 10 June 2008 requesting the Iranian authorities to stay the executions of four juvenile offenders, reminding them of the absolute prohibition on the application of the death penalty for juvenile offenders under international law. She acknowledged the steps taken to subject juvenile cases to closer judicial scrutiny and to encourage settlements between perpetrators and the families of victims.

41. During the reporting period, the Special Rapporteur on extrajudicial, summary or arbitrary executions issued several urgent action letters in response to information received regarding individuals who had been sentenced to death for crimes they had committed as juveniles.

42. The case of Delara Darabi received widespread international attention from various media sources and international non-governmental organizations.[17] Ms. Darabi was 22 years old when she was executed on 1 May 2009 for a crime she had allegedly committed when she was 17, despite a two-month stay of execution that had been issued by the head of the judiciary. In a letter to the Iranian authorities, the United Nations High Commissioner for Human Rights expressed her deepest disappointment at the execution and her grave concern that the directive from the head of the judiciary appeared to not have been complied with.

F. Women's rights

43. The Islamic Republic of Iran has not ratified the Convention on the Elimination of All Forms of Discrimination against Women.

44. Since June 2008, the Special Rapporteur on violence against women, along with the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, issued three allegation letters to the Iranian authorities concerning reports that 10 persons (9 women and 1 man) had been arrested by security forces for being part of the "one million signatures" campaign, which called for gender equality under Iranian legislation and for amendments to laws that discriminated against women. The nine women were allegedly detained for eight hours and then released, while one man was sentenced to one year on charges of endangering national security through spreading propaganda against the State. On 8 September 2008, an allegation letter was sent by the same Special Rapporteurs regarding the August 2008 sentencing of Zeynab Bayzeydi, a human rights defender, to four years imprisonment by the Mahabad Revolutionary Court on charges of being a member of unauthorized human rights associations and participating in the Campaign for Equality. The Special Rapporteurs expressed concern that the sentencing and imprisonment of Ms. Bayzeydi might have been related solely to her peaceful activities in defending human rights.

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[16] Amnesty International, "Executions of juveniles since 1990".

[17] Human Rights Watch, "Iran: secret execution of juvenile offender", 1 May 2009; and Amnesty International, "Delara Darabi executed in Iran", 1 May 2009.

45. On 27 November 2008, the Special Rapporteurs on the situation of human rights defenders and on violence against women issued a joint statement expressing deep concern regarding the ongoing crackdown on women's rights defenders in the Islamic Republic of Iran, noting that peaceful demonstrators had been arrested, detained and persecuted, with prison sentences having been imposed on many of them. They noted that the Government continued to harass and intimidate women's rights activists involved in the "one million signatures" campaign and to prevent them from travelling.

G. Rights of minorities

46. The Iranian Constitution explicitly declares Islam to be the State Religion but contains two important provisions concerning religious minorities. Article 13 states that Zoroastrian, Jewish and Christian Iranians are the only recognized religious minorities who are free to perform their religious rites and ceremonies, within the limits of the law, and to act according to their own canon in matters of personal affairs and religious education. Article 14 also provides protection for non-Muslims, provided they refrain from conspiracy or activity against Islam and the Islamic Republic of Iran. The Baha'i community is not recognized as a religious minority, but the authorities assert that Baha'is enjoy the rights accorded to all other Iranians.

47. OHCHR continues to receive reports of human rights abuses against minorities in the Islamic Republic of Iran. While it is impossible to verify all the information received, a pattern of concern arises with respect to the protection of minorities, including the Baha'i community, the Arab minority in Khuzestan, the Nematollahi Sufi Muslim community, the Kurdish community, the Sunni community, the Baluchi community and the Azeri-Turk community.

48. Reports continued to be received about members of the Baha'i community being subjected to arbitrary detention, confiscation of property and denial of employment, Government benefits and access to higher education. A number of communications have been sent by various Special Rapporteurs and the independent expert on minority issues to the Government regarding the treatment of the Baha'i community. The United Nations High Commissioner for Human Rights wrote on numerous occasions to express concern and seek clarification about the status of seven members of the Baha'i faith who had been detained for more than a year. On 14 May 2008, six members of the Baha'i community — Fariba Kamalabadi, Jamaloddin Khanjani, Afif Naeimi, Saeid Rezaie, Behrouz Tavakkoli, Vahid Tizfahm — reportedly were arrested and have since been held in Evin prison. On 5 March 2008, a seventh member of the Baha'i community, Mahvash Sabet, was reportedly detained by the Iranian authorities and has since been allegedly held incommunicado in Mashhad. The Iranian authorities replied to the concerns of the High Commissioner on 20 February 2009, noting that the arrest of the seven Baha'is was as a result of their illegal activities. Subsequently, OHCHR expressed concern about reports that additional charges had been laid against the seven, including spreading corruption on earth (*mofsed fil arz*), which carries the death penalty. The Iranian Government reported that the charges included threatening and intimidating Iranian citizens to join the "sect organization", meddling with the private lives and beliefs of Iranian citizens and forming a clandestine organization. The seven have yet to be produced before a court and have been denied access to their lawyer. The High Commissioner and the Secretary-General remain concerned that the detention

of those individuals may breach the obligations of the Islamic Republic of Iran under the International Covenant on Civil and Political Rights, in particular freedom of religion and belief and freedom of expression and association.

H. Freedom of peaceful assembly and association and freedom of opinion and expression

49. As highlighted in the previous report of the Secretary-General, serious restrictions remain on the right to freedom of opinion and expression in the Islamic Republic of Iran. The Special Rapporteur on the right to freedom of opinion and expression issued a number of urgent appeal letters expressing serious concerns over allegations received that groups such as journalists, students, poets and human rights defenders had been arrested and imprisoned. The Special Rapporteur raised concerns that the continued detention of individuals charged by the Iranian authorities might be related to their work as human rights defenders and their right to freedom of expression. Concerns were also raised about allegations of torture and ill-treatment and methods used by Iranian security forces, including the searching of property and the confiscation of computers and various documents.

50. On 14 August 2008, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the situation of human rights defenders issued an urgent action drawing attention to information received regarding Nobel Peace Prize laureate Shirin Ebadi. According to information received on 8 August 2008, an article was published on the website of the Islamic Republic News Agency containing allegations that human rights were being used as a means of pressure to impose Western norms on other cultures and criticizing Ms. Ebadi for taking up the defence of homosexuals, Baha'is and agents of the United States of America Central Intelligence Agency. The Special Rapporteurs expressed concern that the slander campaign might be perceived as incitement to further harassment against Ms. Ebadi and her family. The authorities assert that it has been difficult for the Government to provide Ms. Ebadi with protection in light of her positions and statements that are contrary to the religious tendencies of the people.

51. On 23 December 2008, the Deputy United Nations High Commissioner for Human Rights wrote to the Iranian Government expressing her deep concern about reports that the Defenders of Human Rights Centre in Tehran, led by Ms. Ebadi, had been raided by law enforcement officers on 21 December 2008. The Deputy High Commissioner wrote again to the Iranian authorities on 2 January 2009, expressing further concerns about reports that a crowd of protesters had attacked the home of Ms. Ebadi and calling upon the Iranian Government to ensure the safety of Ms. Ebadi and her colleagues. She urged the Government to ensure that human rights defenders in Iran were able to conduct their legitimate activities freely, without intimidation or harassment. She also called upon the Government to immediately authorize the reopening of the centre, to grant it full legal status and to return all materials removed from Ms. Ebadi's private law office. On 3 January 2009, the Secretary-General called on the Iranian authorities to take immediate measures to prevent any further harassment and to ensure the safety and security of Ms. Ebadi.

52. On 5 January 2009, the Iranian authorities replied to OHCHR that the Defenders of Human Rights Centre had received a preliminary permit for its

establishment but had since failed to provide its articles of association or charter for legalization as requested by the law. The Centre had been given notice of that fact in August 2006 and, following non-compliance with that order, the prosecutor's office had issued a legal order for the sealing and closure of the Centre. The authorities noted that Ms. Ebadi and her colleagues were able to conduct their legitimate activities. Frequent meetings, statements and overseas visits by Ms. Ebadi and her colleagues, including the ones to Geneva, were an explicit demonstration of the rights particularly enshrined in the International Covenant on Civil and Political Rights, the authorities said.

I. Lack of due process rights and failure to respect the rights of detainees

53. The Chairperson of the Working Group on Arbitrary Detention issued several communications to the Iranian authorities on a variety of cases that suggested a widespread lack of due process rights and the failure to respect the rights of detainees. Those included allegations that individuals had been placed in detention without charge and had been kept "incommunicado". The use of "incommunicado" imprisonment was highlighted as an issue of concern in General Assembly resolution 62/168 and in the report of the Working Group on its visit to the Islamic Republic of Iran in 2003 and remains a major obstacle to identifying the legal basis of the arrest and detention of an individual. Two urgent actions were also issued in the case of Arash and Kamiar Alaei, both of whom are leading doctors in the field of HIV/AIDS and harm reduction programmes for drug-users in the Islamic Republic of Iran. It was alleged that neither they nor their defence lawyers had been informed of all the charges against them, nor had they been allowed to review all the evidence in the case. The authorities state that the two doctors were charged with acts against national security and not in relation to their humanitarian activities.

54. The case of an American-Iranian national, Roxana Saberi, attracted considerable international attention. According to reports received, Ms. Saberi was arrested in January 2009 and charged with activities in violation of existing press regulations and espionage. Ms. Saberi was detained "incommunicado" until 10 February 2009, when she made a two-minute phone call to her father in the United States informing him of her detention. On 5 March 2009 an Iranian judiciary spokesman confirmed that Ms. Saberi was being held in Tehran's Evin prison. The Iranian authorities stated that Ms. Saberi's press card had been cancelled in 2005 as a result of her activities in violation of existing press regulations. She was sentenced to eight years imprisonment, but that was eventually overturned by the Court of Appeal. Under the new ruling, Ms. Saberi was sentenced to two years of suspended imprisonment; she was subsequently released from prison and left the Islamic Republic of Iran.

55. A number of communications were sent by the Special Rapporteur on the independence of judges and lawyers to the Iranian Government over serious concerns regarding widespread failings in due process and access to lawyers. On 21 January 2009 a number of Special Rapporteurs[18] issued an urgent appeal to the

[18] The Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on torture and the Special Rapporteur on violence against women.

Iranian authorities regarding the case of Gilan Mohammadi and Gholamali Eskandari, two individuals who had been sentenced to death. According to information received, the prison authorities denied lawyers access to the detainees. The Iranian authorities dispute that claim. The Special Rapporteurs reminded the Iranian Government that, in cases of capital punishment, it was the obligation of State parties to rigorously observe all the guarantees for a fair trial set out in article 14 of the International Covenant on Civil and Political Rights, which admitted no exceptions. The Rapporteurs also noted that the Human Rights Committee had observed that "in cases involving capital punishment, it is axiomatic that the accused must be effectively assisted by a lawyer at all stages of the proceedings" (CCPR/C/GC/32, para. 38). According to the authorities, their sentences were commuted upon appeal to imprisonment.

V. Cooperation with international human rights mechanisms and the Office of the United Nations High Commissioner for Human Rights

A. Cooperation with the United Nations human rights treaty system

56. The Islamic Republic of Iran is a party to four major United Nations human rights treaties: the Convention on the Rights of the Child (ratified on 13 July 1994), the International Convention on the Elimination of All Forms of Racial Discrimination (ratificatied on 29 August 1968), the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights (both ratified on 24 June 1975). It has ratified or acceded to some other human-rights-related treaties, including the Convention relating to the Status of Refugees (1951) and the Protocol thereto (both acceded to on 28 July 1976), the Convention on the Prevention and Punishment of the Crime of Genocide (1948) (ratified on 14 August 1956), the International Convention on the Suppression and Punishment of the Crime of Apartheid (1973) (acceded to on 17 April 1985) and the ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (Convention No. 182) (ratified on 8 May 2002).[19]

57. On 26 September 2008 the Islamic Republic of Iran submitted its combined eighteenth and nineteenth periodic reports concerning the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, which had been due on 4 January 2006. As noted above, the Government has not reported to the Committee on Economic, Social and Cultural Rights and the Human Rights Committee for more than a decade. In addition, the concluding observations of each of those bodies adopted in 1993 remain largely unimplemented. Furthermore, the Islamic Republic of Iran has a practice of entering general reservations upon signature or ratification, which has repeatedly been cited by treaty bodies as one of the main factors impeding the enjoyment of some human rights protected under the conventions.

[19] The Islamic Republic of Iran has ratified 13 international labour conventions, five of which are fundamental conventions.

B. Cooperation with the special procedures

58. The Islamic Republic of Iran issued a standing invitation to all thematic special procedures mandate holders in June 2002, which coincided with the discontinuation of the mandate of the Special Representative on the situation of human rights in the Islamic Republic of Iran established by the Commission on Human Rights in 1984. During 2003 and 2005, the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights in Afghanistan, the Working Group on Arbitrary Detention, the Special Rapporteur on the human rights of migrants, the Special Rapporteur on violence against women and the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context all undertook visits to the Islamic Republic of Iran and issued reports on their findings.[20] No visits by any special procedures mandate holders have taken place since 2005.

59. The Iranian Government agreed in principle to visits by the Working Group on Enforced or Involuntary Disappearances,[21] the Special Rapporteur on extrajudicial, summary or arbitrary executions[22] and the Special Rapporteur on freedom of religion or belief,[23] but they have not been scheduled.

60. Requests to visit were made by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment in 2005 and 2007, by the Special Rapporteur on the independence of judges and lawyers in 2006 and by the independent expert on minority issues in 2008; a reminder was also sent by the Special Rapporteur on extrajudicial, summary or arbitrary executions in 2008.

61. The Islamic Republic of Iran will be considered at the seventh session of the Universal Periodic Review Working Group of the Human Rights Council in February 2010.

C. Cooperation with the Office of the United Nations High Commissioner for Human Rights

62. The previous United Nations High Commissioner for Human Rights, Louise Arbour, visited the Islamic Republic of Iran to attend a conference of the Non-Aligned Movement in September 2007. The current High Commissioner met with Iranian Foreign Minister Manouchehr Mottaki in Geneva in September 2008. Since 2008 OHCHR has been discussing with representatives of the Iranian judiciary possible cooperation activities, including conducting a judicial colloquium on fair trial issues in the Islamic Republic of Iran, which has yet to be scheduled.

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[20] E/CN.4/2004/62/Add.2; A/55/346; E/CN.4/2004/3/Add.2 and Corr.1; E/CN.4/2005/85/Add.2; E/CN.4/2006/61/Add.3; and E/CN.4/2006/41/Add.2.

[21] A visit was agreed to for July 2004 but was postponed. Follow-up requests were sent in 2007 and 2008.

[22] Visits were agreed to in principle in September 2006. Several follow-up requests were sent, the latest in December 2008.

[23] Visits were agreed to in principle in November 2003. Several follow-up requests were sent, the latest in April 2008.

63. During the past year, the High Commissioner has intervened with the Iranian authorities in a number of individual human rights cases through private representations, letters and public statements. Those included cases involving the rights of women, executions of juveniles, freedom of religion and the rights of minorities.

VI. Conclusions and recommendations

64. **Once again the present report highlights many areas of continuing concern with respect to human rights in the Islamic Republic of Iran. It is encouraging that some of those issues, such as the rights of women, were the subject of open and vigorous debate in the course of the country's presidential elections this year. The high level of participation in those elections, and the peaceful protests that have ensued, are positive signs of the dynamism of civil society in the Islamic Republic of Iran. As I noted in earlier public statements, I urge the Government and the opposition to peacefully resolve their differences through dialogue and legal means. I have been deeply troubled by reports of the excessive use of force, arbitrary arrest and detention, and possible torture and ill-treatment of opposition activists.**

65. **In relation to other concerns identified in the present report, I note that the authorities have taken some positive steps, for instance to prevent stonings or limit the application of the death penalty to juveniles. I am concerned, however, that they have not been enforced. I encourage the Government of the Islamic Republic of Iran to address the concerns highlighted in the report and to continue to revise national laws, particularly the new penal code and juvenile justice laws, to ensure compliance with international human rights standards and prevent discriminatory practices against women, ethnic and religious minorities and other minority groups.**

66. **I note the positive achievements of the Islamic Republic of Iran with respect to many economic and social indicators. I encourage the Government to continue to address regional disparities in the enjoyment of economic, social and cultural rights, as well as discrimination against women and minorities, particularly in the face of global economic difficulties.**

67. **While encouraging the Government of the Islamic Republic of Iran to cooperate with the United Nations, including OHCHR, to further human rights and justice reform, I call upon the Government to ratify major international human rights treaties, in particular the Convention on the Elimination of All Forms of Discrimination against Women and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and to withdraw the reservations it has made upon the signature and ratification of various human rights treaties, as recommended by the respective treaty bodies. In keeping with its international obligations, the Islamic Republic of Iran needs to finalize its long-outstanding periodic reports under human rights treaties, particularly to the Human Rights Committee and the Committee on Economic, Social and Cultural Rights, in order to allow a systematic review of progress in implementing the related obligations.**

68. **Although the Government's standing invitation to the Human Rights Council special procedures mandate holders is welcomed, I regret that no visit has taken place since 2005 and encourage the Government to facilitate their requested visits to the country as a matter of priority in order that they might conduct more comprehensive assessments. I urge the Government of the Islamic Republic of Iran to implement without delay the recommendations issued by the Human Rights Council special procedures, by the ILO Committee of Experts on the Application of Conventions and Recommendations and by the human rights treaty bodies.**